

**RANDY S WILEY**  
**MERCHANT V SAFECO INS CO OF AMERICA**

October 03, 2022

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23	boconnor@hallestill.com	25	
24	Also Present: Stesha Snow, videographer		
25	REPORTED BY: MARCY A. KING, CSR, RPR		

  

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<p style="text-align: right;">Page 97</p> <p>1 A I believe there was another one with          2 State Farm. I believe it was Greer versus State          3 Farm, and --          4 Q Where was that at?          5 A -- I was deposed.          6 Q Where was that?          7 A I believe it was Mansell, Engel &amp;          8 Cole.          9 Q Where was the case?          10 A El -- El Reno, I think.          11 Q What was the nature of the work you          12 did?          13 A A semi truck hit the home. I wrote          14 an estimate for the repairs. And -- and the          15 extent of the damage from the truck hitting the          16 home.          17 Q Okay. What others?          18 A I believe that's it. I believe.          19 Q Has that been resolved?          20 A I don't know.          21 Q You know you've been deposed but no          22 --          23 A Correct.          24 Q You've never testified for Safeco or          25 Liberty Mutual, correct?</p>	<p style="text-align: right;">Page 99</p> <p>1 the plaintiff's lawyer that engaged you?          2 MR. GIVENS: Object to the form.          3 THE WITNESS: I'm sorry. I          4 didn't understand that.          5 Q (By Mr. O'Connor) Yeah. So with          6 respect to these engagements that you've had          7 that we just went over, you were engaged on each          8 occasion by a plaintiff's law firm, correct?          9 A Correct.          10 Q Not by the actual insured, right?          11 A Correct.          12 Q So on any occasion in which a          13 plaintiff's law firm has engaged you, have you          14 ever reached an opinion that was contrary to the          15 interest of the insured represented by those          16 claims?          17 MR. GIVENS: Object to the form.          18 THE WITNESS: In the ones that I          19 -- in the ones that I've been hired as an expert          20 in?          21 Q (By Mr. O'Connor) Yes.          22 A No.          23 Q How about -- how about as a          24 consultant?          25 A Yes. Multiple times. One of the</p>
<p style="text-align: right;">Page 98</p> <p>1 A Correct.          2 Q And other than your testimony on work          3 that was done while you were an employee of          4 Blackmon Mooring, in your list of cases and          5 those supplemental cases, you've always been          6 testifying for the plaintiff, correct?          7 A Correct.          8 Q And of the list, I see 11 of these          9 cases are originating from engagement by Mansell          10 Engel &amp; Cole; is that accurate?          11 A Probably, yes.          12 Q Has a court ever excluded you from          13 testifying?          14 A Not that I know of.          15 Q Have you ever seen any motions of any          16 kind that attempted to exclude your testimony?          17 A I believe at one time I saw a Daubert          18 motion that was trying to exclude me or          19 something. The judge said no.          20 Q So, to your knowledge, has a judge          21 ever excluded you?          22 A Not to my knowledge, no.          23 Q Have you ever reached a conclusion or          24 provided an opinion that was contrary to the          25 interest of the plaintiff that engaged you or</p>	<p style="text-align: right;">Page 100</p> <p>1 reasons why I believe Mansell, Engel &amp; Cole          2 hires me so far is because -- is because when I          3 go out and I look at the -- I look at the house,          4 and if someone is claiming that there's damage          5 and they ask me to go look at it, I'll go look          6 at it and I'll tell them, yes, there's damage or          7 no, there's not damage. So I'll tell them if          8 it's a good case or not.          9 And I believe they respect my opinion          10 in what I see and my knowledge in the          11 construction industry and the insurance          12 industry.          13 Q So how many occasions have you done          14 that?          15 A Told them no?          16 Q Yeah.          17 A Told them it was bad?          18 Q Yeah.          19 A I would say 50 or 100.          20 Q 50 to 100 times you've said there's          21 no claim here?          22 A Maybe.          23 Q Have you been paid for each of those          24 consulting engagements?          25 A Oh, whenever -- yes.</p>

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<p>1 Q So each time you go out there you're</p> <p>2 being paid by Mansell, Engel &amp; Cole?</p> <p>3 A Yes. It may not be 50 or 100. It</p> <p>4 may be less than that. It may be 20 to 50.</p> <p>5 Q What -- who have you communicated</p> <p>6 with at Mansell, Engel and Cole in this case?</p> <p>7 A Mr. Keith Givens.</p> <p>8 Q And who else?</p> <p>9 A I believe that's it on this case. I</p> <p>10 believe.</p> <p>11 Q Okay. Well, I don't -- I'm not</p> <p>12 prying, but I saw you talking to Mr. Mansell at</p> <p>13 a break. Do you work for Steve Mansell as well?</p> <p>14 A Yes. In the -- I've done work for</p> <p>15 almost every lawyer in here. One of the cases,</p> <p>16 the school case that you asked about, that was</p> <p>17 for Mr. Steve Mansell.</p> <p>18 Q Okay. Have you done work for Mark</p> <p>19 Engel?</p> <p>20 A Yes, sir.</p> <p>21 Q How many times?</p> <p>22 A Probably only a couple of times for</p> <p>23 Mr. Mark Engel. The same thing for Mr. Steve</p> <p>24 Mansell.</p> <p>25 Q And then Adam Engel?</p>	<p>1 in this case or communications have been with</p> <p>2 Mr. Givens?</p> <p>3 A Mr. Givens. And I believe before the</p> <p>4 inspection, or on the day of my inspection Mr.</p> <p>5 and Mrs. Merchant were leaving and I waved to</p> <p>6 them and told them I'd be on the roof.</p> <p>7 Q Okay. So did you meet them?</p> <p>8 A I believe I had met Ms. Merchant</p> <p>9 before then. And it may have been at the</p> <p>10 inspection for Mr. Berryman and them, or before</p> <p>11 the inspection.</p> <p>12 Q How many inspections did you do for</p> <p>13 the Merchant home?</p> <p>14 A I believe -- I know I was involved in</p> <p>15 the video inspection.</p> <p>16 Q Is that when the Berryman firm was</p> <p>17 there?</p> <p>18 A Yes, sir. There, and then an</p> <p>19 inspection after that. I don't remember -- I</p> <p>20 don't remember right off the top of my head if I</p> <p>21 was asked to go look at this before that.</p> <p>22 Q Okay.</p> <p>23 A But this could be one of the cases</p> <p>24 that they asked me to go look at before and see</p> <p>25 if there's damage or not.</p>
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<p>1 A Adam Engel I've probably done the</p> <p>2 most work for.</p> <p>3 Q Okay. And then Jordyn Cartmell?</p> <p>4 A The Same thing.</p> <p>5 Q Keith Givens?</p> <p>6 A Mr. Givens I've probably worked for</p> <p>7 three or four times. Mr. Givens asked me to</p> <p>8 look at a case for him over in Oklahoma City.</p> <p>9 We looked at it, and I told him the person that</p> <p>10 -- the person that says this is damaged by this,</p> <p>11 that's not correct.</p> <p>12 And I --</p> <p>13 Q Do you know who the insurance company</p> <p>14 was at issue there?</p> <p>15 A No.</p> <p>16 Q Anybody else? Any other lawyers at</p> <p>17 Mansell, Engel &amp; Cole?</p> <p>18 A I've worked for Zach -- I don't</p> <p>19 remember Zach's last name.</p> <p>20 Q Anybody else?</p> <p>21 A No.</p> <p>22 Q Have you ever met the insureds here,</p> <p>23 Ty and Kristin Merchant?</p> <p>24 A No.</p> <p>25 Q So your first -- your only meetings</p>	<p>1 Q I didn't see an engagement agreement</p> <p>2 in your production. Do you have any engagement</p> <p>3 agreement with Mansell, Engel &amp; Cole?</p> <p>4 A No, sir.</p> <p>5 Q What are the terms of your</p> <p>6 engagement?</p> <p>7 A Whenever they hire me for inspections</p> <p>8 or estimating, my fees were \$125 an hour.</p> <p>9 They're now 150 due to all of these gas prices.</p> <p>10 And 200 an hour for testifying or depositions</p> <p>11 with an eight hour minimum. And now that's 225.</p> <p>12 Q Are you aware of any statute that</p> <p>13 says you're allowed an eight hour minimum?</p> <p>14 A No.</p> <p>15 Q Any federal rule?</p> <p>16 A No.</p> <p>17 Q Did anybody assist you in the</p> <p>18 engagement here?</p> <p>19 A No.</p> <p>20 Q So there's no wife or sons doing any</p> <p>21 work on this case?</p> <p>22 A No.</p> <p>23 Q Or any other consulting firm that you</p> <p>24 relied on?</p> <p>25 A No.</p>